

## Environmental Protection Agency

§ 272.2201

§§ 272.2102–272.2149 [Reserved]

### Subpart RR—Tennessee

§§ 272.2150–272.2199 [Reserved]

### Subpart SS—Texas

§ 272.2200 [Reserved]

#### § 272.2201 Texas State-Administered program: Final authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), the EPA granted Texas final authorization for the following elements as submitted to EPA in Texas' Base program application for final authorization which was approved by EPA effective on December 26, 1984. Subsequent program revision applications were approved effective on October 4, 1985, February 17, 1987, March 15, 1990, July 23, 1990, October 21, 1991, December 4, 1992, June 27, 1994, November 26, 1997, December 3, 1997, October 18, 1999, November 15, 1999, September 11, 2000, June 14, 2005, December 29, 2008, July 13, 2009, and May 6, 2011.

(b) The State of Texas has primary responsibility for enforcing its hazardous waste management program. However, EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any other applicable statutory and regulatory provisions, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

##### (c) State Statutes and Regulations.

(1) The Texas statutes and regulations cited in paragraph (c)(1)(i) of this section are incorporated by reference as part of the hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* This incorporation by reference is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the Texas regulations that are incorporated by reference in this paragraph are available from West Group, 610 Opperman Drive, Eagan, 55123, Attention: Order Entry; Phone: 1-800-328-9352; Web site: <http://west.thomson.com>. You may inspect a copy at EPA Region 6 Library, 12th

Floor, 1445 Ross Avenue, Dallas, Texas 75202–2733, Phone number: (214) 665–6444, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(i) The Binder entitled “EPA Approved Texas Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program,” dated July 2009.

(ii) [Reserved]

(2) The following provisions provide the legal basis for the State's implementation of the hazardous waste management program, but they are not being incorporated by reference and do not replace Federal authorities:

(i) Texas Health and Safety Code (THSC) Annotated, (Vernon, 2001); Chapter 361, The Texas Solid Waste Disposal Act, sections 361.002, 361.016, 361.017, 361.018, 361.023, 361.024, 361.029, 361.032, 361.033, 361.035, 361.036, 361.037(a), 361.061, 361.063, 361.0635, 361.064, 361.0641, 361.066(b) and (c), 361.067, 361.068, 361.069, 361.079, 361.080(a) and (b), 361.081, 361.083, 361.833, 361.0861(c), 361.0885, 361.090, 361.095(b)–(f), 361.096, 361.097, 361.098, 361.099(a), 361.100, 361.101, 361.102 through 361.109, 361.113, 361.116, 361.272 through 361.275, 361.278, 361.301, 361.321(a) and (b), 361.321(c) (except the phrase “Except as provided by Section 361.322(a)”), 361.321(d), 361.321(e) (except the phrase “Except as provided by Section 361.322(e)”), 361.451, 361.501 through 361.506, and 361.509(a) introductory paragraph, (a)(11), (b), (c) introductory paragraph, and (c)(2); Chapter 371, Texas Oil Collection, Management, and Recycling Act, sections 371.0025(b) and (c), 371.024(a), 371.024(c) and (d), 371.026(a) and (b), 371.028, and 371.043(b).

(ii) Texas Health and Safety Code (THSC) Annotated, (Vernon, 2007 Supplement), effective September 1, 2007: Chapter 361, The Texas Solid Waste Disposal Act, sections 361.0215(b)(2) and (b)(3), 361.0666, 361.078, 361.0791, 361.082 (except 361.082(a) and (f)), 361.084, 361.085, 361.0871(b), 361.088, 361.089, 361.114, and 361.271.

(iii) Texas Water Code (TWC), Texas Codes Annotated (Vernon, 2000), effective September 1, 1999, as amended:

Chapter 5, sections 5.102 through 5.105, 5.112, and 5.351; Chapter 7, sections 7.032, 7.051(a), 7.052(c) and (d), 7.053 through 7.062, 7.064 through 7.069, 7.075, 7.101, 7.104, 7.105, 7.107, 7.110, 7.162, 7.163, 7.189, 7.190, 7.252(1), 7.351, 7.353; Chapter 26, section 26.011; and Chapter 27, sections 27.018 and 27.019.

(iv) Texas Water Code (TWC), Texas Codes Annotated (Vernon, 2002), effective September 1, 2001, as amended: Chapter 5, section 5.177; Chapter 7, sections 7.067 and 7.102.

(v) Texas Water Code (TWC), Texas Codes Annotated (Vernon, 2007), effective September 1, 2007, as amended: Chapter 5, sections 5.501 through 5.505, 5.509 through 5.512, 5.515, 5.551 through 5.557; Chapter 7, sections 7.031, 7.052(a), 7.052(c) and (d), 7.102, 7.176, and 7.187; Chapter 26, sections 26.001(13), 26.039, 26.341 through 26.367; and Chapter 27, section 27.003.

(vi) Texas Government Code (Vernon, 1998), section 311.027, effective May 11, 1993.

(vii) Texas Administrative Code (TAC), Title 30, Environmental Quality, 1994, as amended, effective through January 1, 1994: Chapter 305, sections 305.91 through 305.93, 305.98, and 305.99.

(viii) Texas Administrative Code (TAC), Title 30, Environmental Quality, 1997, as amended, effective through January 1, 1997: Chapter 281, sections 281.17(f); Chapter 305, sections 305.29(b) through (d), 305.94 and 305.95, 305.97, 305.100, 305.101 (except 305.101(c)), 305.102, 305.103, and 305.105.

(ix) Texas Administrative Code (TAC), Title 30, Environmental Quality, 2008, as amended, effective through December 31, 2007: Chapter 39, sections 39.13 (except (10)), 39.105, 39.107, 39.109, 39.413 (except (10)); Chapter 50, sections 50.13, 50.19, 50.39, 50.113 (except (d)), 50.119, and 50.139; Chapter 55, sections 55.27 (except (b)), 55.201 (except as applicable to contested case hearings), and 55.211 (except as applicable to contested case hearings); Chapter 70, section 70.10; Chapter 281, sections 281.1 (except the clause “except as provided by \* \* \* Prioritization Process”), 281.2 introductory paragraph, 281.2(4), 281.3(a) and (b), 281.5 (except the clause “Except as provided by \* \* \* Discharge Permits”), the phrase “radioactive material”, and the phrase “subsurface

area drip dispersal systems”), 281.17(d) (except the references to radioactive material licenses), 281.17(e), 281.18(a) (except for the sentence “For applications for radioactive \* \* \* within 30 days.”), 281.19(a) (except the last sentence), 281.19(b) (except the phrase “Except as provided in subsection (c) of this section.”), 281.20, 281.21(a) (except the phrase “and the Texas Radiation Control Act \* \* \* Chapter 401.”), the acronym “TRCA”, and the phrase “subsurface area drip dispersal systems”), 281.21(b), 281.21(c) (except the phrase “radioactive materials,” in 281.21(c)(2)), 281.21(d), 281.22(a) (except the phrase “For applications for radioactive \* \* \* to deny the license.”), 281.22(b) (except the phrase “or an injection well,” in the first sentence and the phrase “For underground injection wells \* \* \* the same facility or activity.”), 281.23(a), and 281.24; Chapter 305, sections 305.64(d) and (f), 305.66(c), 305.66(e) (except for the last sentence), 305.66(f) through (l), 305.123 (except the phrases “and 401 \* \* \* regulation)” and “and 32”), 305.125(1) and (3), 305.125(20), 305.127(1)(B)(i), 305.127(4)(A) and (C), 305.127(6), 305.401(a), 305.401(b) (except the text “§ 39.3 of this title (relating to Purpose) \* \* \* § 55.21 of this title (relating to Requests for Contested Case Hearings, Public Comment)”)), 305.401(d) through (h); and Chapter 335, sections 335.2(b), 335.43(b), 335.206, 335.391 through 335.393.

(3) The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, and are not incorporated by reference:

(i) Texas Health and Safety Code (THSC) Annotated, (Vernon 2001): Chapter 361, The Texas Solid Waste Disposal Act, sections 361.131 through 140; Chapter 371, Texas Oil Collection, Management, and Recycling Act, sections 371.021, 371.022, 371.024(e), 371.0245, 371.0246, 371.025, and 371.026(c).

(ii) Texas Administrative Code (TAC), Title 30, Environmental Quality, 2008, as amended, effective through December 31, 2007: Chapter 305, sections 305.53 and 305.64(b)(4); Chapter 335, sections 335.321 through 335.332, Appendices I and II, and 335.401 through 412.

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(4) *Unauthorized State Amendments and Provisions.* (i) The following authorized provisions of the Texas regulations include amendments published in the Texas Register that are not approved by EPA. Such unauthorized amendments are not part of the State's authorized program and are, therefore, not Federally enforceable. Thus, notwithstanding the language in the Texas hazardous waste regulations incorporated by reference at paragraph (c)(1)(i) of this section, EPA will enforce the State provisions that are ac-

tually authorized by EPA. The effective dates of the State's authorized provisions are listed in the Table below. The actual State regulatory text authorized by EPA (*i.e.*, without the unauthorized amendments) is available as a separate document, *Addendum to the EPA-Approved Texas Regulatory and Statutory Requirements Applicable to the Hazardous Waste Management Program, July, 2009*. Copies of the document can be obtained from U.S. EPA Region 6, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202.

State provision (December 31, 2007, except as indicated)	Effective date of authorized provision	Unauthorized State amendments	
		Texas Register reference	Effective date
335.2(c) .....	11/7/91	18 TexReg 2799 .....	5/12/93
		18 TexReg 8218 .....	11/23/93
335.6(a) .....	7/29/92	18 TexReg 2799 .....	5/12/93
		22 TexReg 12060 .....	12/15/97
		23 TexReg 10878 .....	10/19/98
335.6(c) introductory paragraph .....	7/29/92	17 TexReg 8010 .....	11/27/92
		20 TexReg 2709 .....	4/24/95
		20 TexReg 3722 .....	5/30/95
		21 TexReg 1425 .....	3/1/96
		21 TexReg 2400 .....	3/6/96
		22 TexReg 12060 .....	12/15/97
		23 TexReg 10878 .....	10/19/98
		26 TexReg 9135 .....	11/15/01
335.6(g) .....	7/29/92	18 TexReg 3814 .....	6/28/93
		22 TexReg 12060 .....	12/15/97
		23 TexReg 10878 .....	10/19/98
335.10(b)(22) (December 31, 2001) .....	7/27/88	17 TexReg 8010 .....	11/27/92
335.24(b) introductory paragraph .....	3/1/96	21 TexReg 10983 .....	11/20/96
		23 TexReg 10878 .....	10/19/98
335.24(c) introductory paragraph .....	3/1/96	21 TexReg 10983 .....	11/20/96
		23 TexReg 10878 .....	10/19/98
335.41(c) .....	9/1/86	18 TexReg 8218 .....	11/23/93
335.45(b) .....	9/1/86	17 TexReg 5017 .....	7/29/92
335.204(a)(1) .....	5/28/86	16 TexReg 6065 .....	11/7/91
335.204(b)(1) .....	5/28/86	16 TexReg 6065 .....	11/7/91
335.204(b)(6) .....	5/28/86	16 TexReg 6065 .....	11/7/91
335.204(c)(1) .....	5/28/86	16 TexReg 6065 .....	11/7/91
335.204(d)(1) .....	5/28/86	16 TexReg 6065 .....	11/7/91
335.204(e)(6) .....	5/28/86	16 TexReg 6065 .....	11/7/91

(ii) Additionally Texas has partially or fully adopted, but is not authorized to implement, the Federal rules that are listed in the following table. The EPA will continue to implement the Federal HSWA requirements for which Texas is not authorized until the State receives specific authorization for

those requirements. The EPA will not enforce the non-HSWA Federal rules although they may be enforceable under State law. For those Federal rules that contain both HSWA and non-HSWA requirements, the EPA will enforce only the HSWA portions of the rules.

Federal requirement	Federal Register reference	Publication date
Imports and Exports of Hazardous Waste: Implementation of OECD Council Decision (HSWA) (Checklist 152)	61 FR 16290 .....	April 12, 1996.
Clarification of Standards for Hazardous Waste LDR Treatment Variances (SWA) (Checklist 162).	62 FR 64504 .....	December 5, 1997.
Post-Closure Permit Requirement and Closure Process (HSWA and Non-HSWA) (Checklist 174)	63 FR 56710 .....	October 22, 1998.

Federal requirement	Federal Register reference	Publication date
Organobromine Production Wastes; Petroleum Refining Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions (HSWA) (Checklist 187).	64 FR 36365 .....	June 8, 2000.
Zinc Fertilizers Made from Recycled Hazardous Secondary Materials (HSWA and Non-HSWA) (Checklist 200).	67 FR 48393 .....	July 24, 2002.
Modification of the Hazardous Waste Manifest System (HSWA and Non-HSWA) (Checklist 207).	70 FR 10776 .....	March 4, 2005.
Methods Innovation Rule and SW-846 Update IIIB (HSWA and Non-HSWA) (Checklist 208).	70 FR 35034 .....	June 16, 2005.
Hazardous Waste Management System; Modification of the Hazardous Waste Program; Mercury Containing Equipment (Non-HSWA) (Checklist 209).	70 FR 34538 .....	June 14, 2005.
	70 FR 44150 .....	August 1, 2005.
	70 FR 45508 .....	August 5, 2005.

(iii) Texas has chosen not to adopt, and is not authorized to implement, the following optional Federal rules:

Federal requirement	Federal Register reference	Publication date
NESHAPS Second Technical Correction, Vacatur (Non-HSWA) (Checklist Rule 188.1).	66 FR 24270 .....	May 14, 2001.
Storage, Treatment, Transportation and Disposal of Mixed Waste (Non-HSWA) (Checklist 191).	66 FR 27218 .....	May 16, 2001.
Inorganic Chemical Manufacturing Waste Identification and Listing (HSWA/Non-HSWA) (Checklist Rule 195.1).	67 FR 17119 .....	April 9, 2002.
Hazardous Air Pollutant Standards for Combustors: Interim Standards (HSWA/Non-HSWA) (Checklist 197).	67 FR 6792 .....	February 13, 2002.
Land Disposal Restrictions: National Treatment Variance to Designate New Treatment Subcategories for Radioactively Contaminated Cadmium, Mercury-Containing Batteries and Silver-Containing Batteries (HSWA) (Checklist 201).	67 FR 62618 .....	October 7, 2002.
Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards (Non-HSWA) (Checklist 203).	68 FR 44659 .....	July 30, 2003.
National Environmental Performance Track Program (Non-HSWA) (Checklist 204).	69 FR 21737 .....	April 22, 2004.
NESHAP: Surface Coating of Automobiles and Light-Duty Trucks (Non-HSWA) (Checklist 205).	69 FR 62217 .....	October 25, 2004.
	69 FR 22601 .....	April 26, 2004.

(5) *Memorandum of Agreement*. The Memorandum of Agreement between EPA Region VI and the State of Texas, signed by the Executive Director of the Texas Natural Resource Conservation Commission (TNRCC) on March 10, 2009, and by the EPA Regional Administrator on April 22, 2009, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) *Statement of Legal Authority*. “Attorney General’s Statement for Final Authorization”, signed by the Attorney General of Texas on May 22, 1984 and revisions, supplements, and addenda to that Statement dated November 21, 1986, July 21, 1988, December 4, 1989, April 11, 1990, July 31, 1991, February 25, 1992, November 30, 1992, March 8, 1993, January 7, 1994, August 9, 1996, October 16, 1996, as amended February 7,

1997, March 11, 1997, January 5, 1999, November 2, 1999, March 1, 2002, and July 16, 2008 are referenced as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(7) *Program Description*. The Program Description and any other materials submitted as part of the original application or as supplements thereto are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

[76 FR 12287, Mar. 7, 2011]